

TOWN OF MAYNARD TOWN CLERK

MUNICIPAL BUILDING
195 MAIN STREET
MAYNARD, MASSACHUSETTS 01754
Tel: 978-897-1300 Fax: 978-897-8553

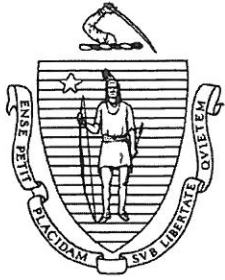
December 16, 2013

Maynard Special Town Meeting of November 4, 2013 – Case #7008
Warrant Articles #6, 8, 9, 10 and 11 (Zoning)

The above amendment to the Zoning By-Laws was approved by the Office of the Attorney General.

Martha Coakley
Attorney General

ATTEST: A True Copy.....Michelle L. Sokolowski, Town Clerk



MARTHA COAKLEY
ATTORNEY GENERAL

THE COMMONWEALTH OF MASSACHUSETTS OFFICE OF THE ATTORNEY GENERAL

CENTRAL MASSACHUSETTS DIVISION
10 MECHANIC STREET, SUITE 301
WORCESTER, MA 01608

(508) 792-7600
(508) 795-1991 fax
www.mass.gov/ago

December 13, 2013

Michelle L. Sokolowski, Town Clerk
Town of Maynard
196 Main Street
Maynard, MA 01754

RE: Maynard Special Town Meeting of November 4, 2013 - Case # 7008
Warrant Articles # 6, 8, 9, 10 and 11 (Zoning)
Warrant Articles # 2, 3, 4, and 5 (General)

Dear Ms. Sokolowski:

Articles 6, 8, 9, 10 and 11 - We approve the amendments to the Maynard by-laws adopted under these Articles at the November 4, 2013 Special Town Meeting.

Articles 2, 3, 4 and 5 – We retain these Articles for further review and will our decision on them on or before our original deadline of February 23, 2014.

Note: Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the town has first satisfied the posting/publishing requirements of that statute. Once this statutory duty is fulfilled, (1) general by-laws and amendments take effect on the date that these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the date they were voted by Town Meeting, unless a later effective date is prescribed in the by-law.

Very truly yours,
MARTHA COAKLEY
ATTORNEY GENERAL

Margaret J. Hurley

by: Margaret J. Hurley, Assistant Attorney General
Chief, Central Massachusetts Division
Director, Municipal Law Unit
Ten Mechanic Street, Suite 301
Worcester, MA 01608
(508) 792-7600 x 4402

cc: Town Counsel Lisa Mead

ARTICLE: 6 RE: Zoning Bylaw Amendments. Add a new Section 7.7 entitled “Registered Marijuana Dispensary” and add said use to the Use Regulations, Section 3.0.

To see if the Town will vote to amend the Town’s Zoning Bylaw’s as follows:

1. Amend Table A – Use Regulations in Section 3.1.2 to add the use “Registered Marijuana Dispensary (RMD)” within the Principal Uses, Section 4, Business Uses, as an allowable use by Planning Board Special Permit only in the B, HCI and I zoning districts.

4. Business Uses	S-1	S-2	GR	B	CB	HCI	I	GA	OS
Registered Marijuana Dispensary	N	N	N	PB	N	PB	PB	N	N

2. And by adding a new section in Section 7.0 *Special Regulations* for Registered Marijuana Dispensary as follows:

“7.7 Registered Marijuana Dispensary

7.7.1 A Registered Marijuana Dispensary (RMD) is considered a non-profit facility or location that has been registered by the Massachusetts Department of Public Health, where medical marijuana is grown, processed and/or made available to a qualifying patient or a personal caregiver as determined by 105 CMR 725.000.

7.7.2 **Spacing Requirements.** A Registered Marijuana Dispensary shall not be sited within the distance of any uses in accordance with 105 CMR 725.110(A)(14).

7.7.3 **Term.** A Special Permit granted under this Section shall expire within two (2) years of the date of issuance of the Permit. Prior to the expiration of the Special Permit, the applicant shall make application to the Special Permit Granting Authority for renewal of the Special Permit for an additional two (2) year period. Said renewal shall not require the technical submissions of the original application, provided that conditions of the site and facility have not changed materially from the original application.

7.7.4 **Transfer.** In addition to the Term requirements specified under Section 7.7.3, a Special Permit granted under this Section shall have a term limited to the duration of the applicant’s ownership of the premises as a Registered Marijuana Dispensary. A Special Permit may be transferred only with the approval of the Special Permit Granting Authority in the form of a modification to the Special Permit with all information required per this Section 7.7, Section 10.4 and in any Rules and Regulations that have been adopted, per Section 7.7.5.

7.7.5 Further Criteria:

1. No permit shall be granted hereunder to any applicant, principal officer, agent, owner or manager of the Registered Marijuana Dispensary who has been convicted of a felony in the Commonwealth of Massachusetts. The application

shall include proof of the foregoing, by sworn statement and including submission to a CORI from the Chief of Police for each of the aforementioned individuals. The Chief of Police shall report to the SPGA prior to the close of the public hearing whether or not the applicant complies with this criteria.

2. In addition to the criteria and requirements set forth hereunder, the provisions of Section 10.4 shall apply to Special Permits filed under this Section 7.7”

To do or act thereon.

SPONSORED BY: Planning Board
APPROPRIATION: None
FINCOM RECOMMENDATION:

The following action was taken:

Voted: Yes 133, No 18 (101 needed for a 2/3 vote) that the Town accept the article as printed in the warrant except the words “To do or act thereon.”

The Planning Board recommended.

The Finance Committee recommended.

This article was voted by a secret ballot as required per Town bylaw.

ARTICLE: 8 RE: Zoning Bylaw Amendments. Replace existing definition of Supermarket.

To see if the Town will vote to amend the Town's Zoning Bylaw, Section 11.0, Definitions, by replacing the existing definition of Supermarket in its entirety and replacing with the following definition. Changes are in bold and strike-through font represents deletion.

~~Supermarket:~~ ~~A retail establishment or full-service grocery store primarily selling food and grocery items which may provide multiple departments offering for sale unprepared foods such as, but not limited to, fresh meats, fresh poultry, fresh seafood, organic foods, bakery products that are baked on the premises, a fresh produce department and a deli department offering freshly prepared foods and counter service, which may contain a pharmacy and which may sell other merchandise such as convenience items, household supplies, hardware, and personal care and health products.~~

Supermarket: An establishment whose primary business is the sale of a general line of food such as fresh fruits and vegetable, fresh and prepared meats, fish and poultry, and canned, packaged and frozen foods, with none of the lines predominating. The floor area devoted to the sale and storage of food comprises a minimum of 75% of the gross floor area of the establishment, with a maximum of 25% of the gross floor area devoted to non-food items. For purposes of this definition, gross floor area shall include indoor and outdoor space utilized for retail display and sale of goods.

To do or act thereon.

SPONSORED BY: Planning Board
APPROPRIATION: None
FINCOM RECOMMENDATION:

The following action was taken:

Voted: Yes 154, No 6 (107 needed for a 2/3 vote) that the Town accept the article as printed in the warrant except the words "To do or act thereon."

The Planning Board recommended.

The Finance Committee recommended.

This article was voted by a secret ballot as required per Town bylaw.

SPECIAL TOWN MEETING – NOVEMBER 4, 2013 – FOWLER MIDDLE SCHOOL

ARTICLE: 9 RE: Zoning Bylaw Amendments. Proposed Amendments to Section 3, Use Regulations, regarding the allowed use of Supermarket.

To see if the Town will vote to amend the Town's Zoning Bylaws as follows:

1. In the Section 3.1.2, Table A, Use Regulations, part 4, omit the use "Supermarket" and the designations which follow it.

2. In place thereof, Amend Table A – Use Regulations in Section 3.1.2 by adding the following

a. "Supermarket, up to 25,000 square feet Floor Area, Gross" in the Central Business District (CB), Business District (B), Industrial (I) District, and Health Care/Industrial District (HCI) would be an allowed or permitted use ("Y"); and

b. "Supermarket, greater than 25,000 square feet Floor Area, Gross and up to 65,000 square feet Floor Area, Gross" in the Business District (B), Industrial (I) District and Health Care/Industrial District (HCI) would be allowed subject to Special Permit from the Planning Board ("PB") but in the Central Business District (CB) would be changed to a prohibited use ("N"); and

c. "Supermarket, greater than 65,000 square feet Floor Area, Gross" in the Business District (B), Industrial (I) District and Health Care/Industrial District (HCI) would be changed to a prohibited use ("N").

All as set forth below:

4. Business Uses	S-1	S-2	GR	B	CB	HCI	I	GA	OS
Supermarket, up to 25,000 square feet Floor Area, Gross	N	N	N	Y	Y	Y	Y	N	N
Supermarket, greater than 25,000 square feet Floor Area, Gross and up to 65,000 square feet Floor Area, Gross	N	N	N	PB	N	PB	PB	N	N
Supermarket, greater than 65,000 square feet Floor Area, Gross	N	N	N	N	N	N	N	N	N

To do or act thereon.

SPONSORED BY: Planning Board
APPROPRIATION: None
FINCOM RECOMMENDATION:

The following action was taken:

Voted: Yes 142, No 16 (105 needed for a 2/3 vote) that the Town accept the article as printed in the warrant except the words "To do or act thereon."

The Planning Board recommended.

The Finance Committee recommended.

This article was voted by a secret ballot as required per Town bylaw.

ARTICLE: 10 RE: Zoning Bylaw Amendments. Add a new Section 4.1.4, Maximum Total Gross Square Feet and Special Permit.

To see if the Town will vote to amend the Town's Zoning Bylaw's by adding a new section 4.1.4 in Section 4.0 *Dimensional Regulations*:

"4.1.4. Total Gross Square Feet Threshold for Special Permit

1. On any Lot, any new building or combination of new buildings exceeding 25,000 (twenty-five thousand) "Total Gross Square Feet" as hereinafter defined, of space shall be required to obtain a Special Permit from the Planning Board in accordance with Section 10.4 herein.
2. "Total Gross Square Feet" shall mean the gross square feet of the building(s) that is measured from the exterior face of the outside wall to the exterior face of the opposite outside wall for length and width, times the number of habitable levels of space. The Total Gross Square Feet does not include attics with a ceiling height of less than 6' or basements that are unfinished or uninhabitable. The Total Gross Square Feet shall include roof overhangs extending more than two feet from the exterior building wall, garages, carports, canopies, and other structures whether or not such garages, carports, canopies, or other structures are part of the building or combination of buildings.
3. This Section 4.1.4. shall not apply to Section 9.3.8. Table G. herein"

To do or act thereon.

SPONSORED BY: Planning Board
APPROPRIATION: None
FINCOM RECOMMENDATION:

The following action was taken:

Voted: Yes 116, No 44 (107 needed for a 2/3 vote) that the Town accept the article as printed in the warrant except the words "To do or act thereon."

The Planning Board recommended.

The Finance Committee recommended.

This article was voted by a secret ballot as required per Town bylaw.

SPECIAL TOWN MEETING – NOVEMBER 4, 2013 – FOWLER MIDDLE SCHOOL

ARTICLE: 11 RE: Zoning Bylaw Amendments. Add a new Section 4.1.5, Maximum Building Size Retail Establishments in all Districts.

To see if the Town will vote to amend the Town's Zoning Bylaw's by adding a new section 4.1.5 in Section 4.0 *Dimensional Regulations*:

4.1.5. Maximum Building Size Retail Business in all Districts

1. Notwithstanding Table B in Section 4.1.1. , Section 4.1.2. Building Coverage, Table G of Section 9.3.8. and Section 9.3.9 District Total, of these Zoning By-laws, in all zoning districts, no single retail business, whether located in a single building or combination of buildings, shall exceed 65,000 (sixty-five thousand) square feet of Gross Retail Area in the aggregate on a single and/or adjoining lot.
2. For the purpose of Section 4.1.5. the term Gross Retail Area shall include indoor and outdoor space utilized for retail display and sale of goods. The Gross Retail Area of adjacent stores shall be aggregated in cases (a) where the stores operate under common ownership or management; (b) are engaged in the selling of similar or related goods, wares or merchandise; (c) share checkout stands, a warehouse, or a distribution facility; or (d) otherwise operate as associated, integrated or co-operative business enterprises.
3. For purposes of this section, a "Wholesale Club" or similar use for which a majority of the customers make their purchases at the site shall be considered a retail use.
4. This Section 4.1.5. shall not apply to Section 9.3.8. Table G herein."

To do or ac thereon.

SPONSORED BY: Planning Board

APPROPRIATION: None

FINCOM RECOMMENDATION:

The following action was taken:

Voted: Yes 132, No 15 (98 needed for a 2/3 vote) that the Town accept the article as printed in the warrant except the words "To do or act thereon."

The Planning Board recommended.

The Finance Committee recommended.

This article was voted by a secret ballot as required per Town bylaw.

Motion made and seconded to dissolve the November 4th 2013 Special Town Meeting at 8:42 p.m.

SPECIAL TOWN MEETING – NOVEMBER 4, 2013 – FOWLER MIDDLE SCHOOL

